

## **REMARKS**

This application has been reviewed in light of the Office Action dated March 24, 2005. Claims 1-19 are pending. Claims 20-23 have been canceled without prejudice. Claims 1 and 13 are in independent form. Favorable reconsideration is requested.

The Office Action rejected Claims 20-23 under 35 U.S.C. §102 (b) as being anticipated by Shiobara et al. Claims 20-23 have been cancelled, thus this rejection is moot.

The Office Action rejected Claims 1-23 under 35 U.S.C. § 103(a) as being unpatentable over Schneider, Otsuka or Schwartzman. Claims 20-23 have been cancelled, thus this rejection is moot in regard to these claims. Applicant respectfully traverses the rejection directed to Claims 1-19.

Applicant submits that independent Claims 1 and 13, together with the remaining claims dependent thereon, are patentably distinct from the proposed combination of the cited prior art at least for the following reasons.

The aspect of the present invention set forth in Claim 1 is a point assembly for an applicator that includes a housing having a back end and a tip end with a tip opening, a tip ball positioned in the tip end of the housing and sized to close the tip end opening when positioned against the tip opening, a biasing element positioned to bias the tip ball toward the tip opening and a ball pusher positioned between the biasing element and the tip ball and having a support element and a contact element extending from the support element and having a shape adapted to conform to the shape of the tip ball. The support element has a front face and a rear face, the contact element extends from the front face, the contact element having a pushing end in contact with the tip ball designed and configured to conform to the shape of the tip ball and the rear face faces the biasing element. The support element has a cross-sectional dimension and the contact element has a cross-sectional dimension smaller than the support element cross-sectional dimension and the support element does not contact the biasing element in a lateral direction.

Among other notable features of Claim 1 is that the contact element 14 has a pushing end 52 in contact with the tip ball 36 designed and configured to conform to the shape of the tip ball 36 (see, e.g., Fig. 2)<sup>1</sup>.

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<sup>1</sup> It is to be understood, of course, that the scope of the claims are not limited to the details of this embodiment.

The Office Action states at page 3 that the Shiobara reference does not explicitly teach that the pushing end contacting element 8c is designed and configured to conform to the shape of the tip ball, thus Applicant does not discuss the Shiobara reference herein.

The Office Action also states at page 3 that “... the Schneider, Otsuka, or Schwartzman reference, which discloses an analogous point assembly which shows a ball pusher with a contact element having a pushing end contacting a tip ball designed and configured to conform to the shape of the tip ball.”

Applicant submits that Schneider describes a seat 6 which bears the ball and which conforms the surface of the ball in order to ensure a regular rotation of the ball and a regular amount of the ink around the ball. The only presence of the axis 8 is not sufficient to ensure the satisfactory rotation of the ball. Schneider therefore teaches away from the present invention as recited, for example, in Claim 1.

Moreover, Applicant submits that Otsuka teaches a pen tip structure in which a ball 4 is socketed between a holding pipe 1 and a ball receiving core 2. The contacting part of the ball receiving core 2 comprises an inner cavity which is such that a part of the ball can be inserted in the cavity and can freely rotate inside the cavity. The cavity, however, does not conform to the shape of the ball. Therefore, Otsuka thus teaches away from the invention as recited, for example, in Claim 1.

Furthermore, Applicant submits that Schwartzman teaches that “[t]he ball 22 is carried by a cylindrical carrier 24 having a hemispherical indentation 26 provided in the upper surface thereof. Directly below and integral with the carrier 24 is a tapering shoulder 26 having integral spring means 28 formed in helical coils integrally therewith” (col. 2, lines 35-40). However, nothing in this section, or any other section of Schwartzman, would teach or suggest that the indentation 26 conforms to the shape of the ball 22.

Applicant submits that both Otsuka, Schneider and Schwartzman describe a supporting member in which is inserted or supported a large part of the ball. Consequently, nothing in Otsuka, Schneider and Schwartzman, when taken separately or in combination (assuming such combination is even permissible), would teach or suggest the fact that it is useful to have a contacting surface with the ball that conforms to the surface of the ball.

At least for this reason, Applicant submits that Claim 1 is patentable over Otsuka, Schneider, and Schwartzman, when taken separately or in any proper combination, and therefore respectfully requests withdrawal of this rejection.

Independent Claim 13 includes the same feature of a contact element that has a pushing end in contact with the tip ball designed and configured to conform to the shape of the tip ball, as discussed above in connection with Claim 1. Accordingly, Claim 13 is believed to be patentable for at least the same reasons as discussed above in connection with Claim 1.

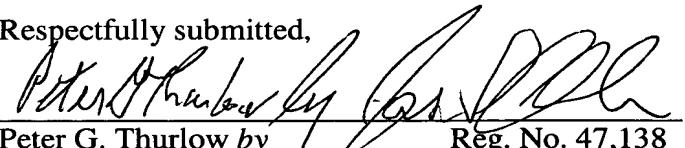
The other rejected claims in this application depend from Claim 1 or Claim 13 discussed above, and, therefore, are submitted to be patentable for at least the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, individual reconsideration of the patentability of each claim on its own merits is respectfully requested.

In view of the foregoing amendments and remarks, Applicant respectfully requests favorable reconsideration and early passage to issue of the present application.

Applicant's undersigned attorney may be reached in our New York Office by telephone at (212) 326-3694. All correspondence should continue to be directed to our address listed below.

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Respectfully submitted,

  
Peter G. Thurlow by  
Jason S. Charkow

Reg. No. 47,138  
Reg. No. 46,418

**JONES DAY**  
222 East 41st Street  
New York, New York 10017  
(212) 326-3694